


AN ORDINANCE


06-0-2578

BY COUNCIL MEMBER HOWARD SHOOK

AN ORDINANCE TO WAIVE THE PROVISIONS OF CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-69(B) AND TO WAIVE THE PROVISIONS OF CHAPTER 10, ARTICLE II, DIVISION 2, SECTION 10-88.1 OF THE CITY OF ATLANTA CODE OF ORDINANCES AS SUCH PROVISIONS APPLY TO AN ESTABLISHMENT WHICH IS ALREADY LICENSED TO SELL ALCOHOLIC BEVERAGES BY THE PACKAGE, TO FULFILL THE INTENT OF THE CITY COUNCIL WHEN IT ADOPTED ORDINANCE 06-0-0146, A ZONING ORDINANCE WHICH APPROVED WITH CONDITIONS ZONING CASE Z-05-135, TO ALLOW SUCH ESTABLISHMENT TO BE DEMOLISHED AND REPLACED WITH A NEW STRUCTURE WHICH WILL BE PART OF A TWO BUILDING RETAIL AND OFFICE MIXED USE PROJECT ON PEACHTREE STREET; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in maintaining the public safety and welfare of citizens of the City of Atlanta and its visitors; and

WHEREAS, the City of Atlanta has an interest in regulating, through the lawful exercise of its police powers, the sale of alcoholic beverages within its territorial limits; and

WHEREAS, the City of Atlanta is authorized to regulate the location of establishments which are licensed to sell alcoholic beverages by the package; and

WHEREAS, Section 10-69 (b) of the City of Atlanta Code of Ordinances requires that the holder of an alcohol license who has commenced operating a licensed business but thereafter ceases to operate the licensed business for a period of nine (9) consecutive months shall, upon completion of the nine (9) months, automatically forfeit the alcohol license; and

WHEREAS, Section 10-88.1 (c) of the City of Atlanta Code of Ordinances provides in part that a location licensed for the retail sale of packaged alcoholic beverages on or before May 6, 1997 shall not be required to comply with the distance requirements set forth in Section 10-88.1 (b) (1-7) of the City of Atlanta Code of Ordinances provided that such location is not expanded or enlarged; and

WHEREAS, Section 10-88.1 (a) of the City of Atlanta Code of Ordinances provides in part that both an application for a renewal license to sell distilled spirits by the package and an application for a renewal license to sell beer and/or wine by the package, shall not be subject to the distance restriction in Section 10-88.1 (a) of the City of Atlanta Code of Ordinances if the location associated with such applications is one for which licenses to sell distilled spirits by the package and to sell beer and/or wine by the package have been issued prior to July 1, 1997; and

WHEREAS, certain areas of the City of Atlanta are being redeveloped and are being built to take advantage of the opportunity to establish an environment of mixed use in-town living which caters to the convenience of the residents and businesses therein; and

WHEREAS, one of the areas that is currently undergoing redevelopment, including increased residential densities and growth of office and retail facilities, is the Peachtree Road/Peachtree Street corridor in Buckhead, Midtown and Downtown; and

WHEREAS, one (1) of the land use policies of the City of Atlanta stated in the City of Atlanta Comprehensive Development Plan is to discourage strip commercial development, and the City of Atlanta, in the Comprehensive Development Plan, adopted certain sub-policies to discourage strip commercial development including: a) encourage coordinated, planned development activity and discourage continuation and expansion of strip commercial areas; b) promote the development of a mix of land uses (primarily commercial and residential) along commercial strips so that traffic generation peaks at different times during the day; and

WHEREAS, on July 17, 2006 the Atlanta City Council adopted, and on July 25, 2006, the Mayor of the City of Atlanta approved, Ordinance 06-O-0146, which granted with conditions, including a site plan and landscaping plan, Zoning Case Z-05-135, for certain property on the Peachtree Road/Peachtree Street corridor at the intersection of Peachtree Street with Collier Road, including 1895 Peachtree Road, N.E., which changes the zoning of such property from C-3 to C-3-C; and

WHEREAS, the development of the project contemplated by Ordinance 06-O-0146 will eliminate a strip shopping center on the Peachtree Road/Peachtree Street corridor and will replace it and other adjacent freestanding retail uses with the coordinated development of mixed-use retail and office uses and will protect the transition of uses to nearby local residences; and

WHEREAS, the development of the project contemplated by Ordinance 06-O-0146 will accommodate growth and preserve the character of the local neighborhood by preserving a longstanding neighborhood business, the licensed package store establishment which has been in operation for more than fifteen (15) years at 1895 Peachtree Road, N.E.; and

WHEREAS, the City of Atlanta recognizes that this type of development presents many advantages, including safe, pleasant, and convenient pedestrian circulation, minimal conflict between pedestrians and vehicles, and the provision of the opportunity for continuous pedestrian oriented uses and activities; and

WHEREAS, the City of Atlanta recognizes that the economic development which is taking place on the Peachtree Road/Peachtree Street corridor has caused some property owners to engage in the demolition or reconstruction of existing buildings and to replace such buildings with the construction of new mixed-use buildings which will be compatible with the goals of the Comprehensive Development Plan; and

WHEREAS, the City of Atlanta recognizes that the demolition and reconstruction of existing buildings to construct new mixed-use buildings which will be compatible with the goals of the Comprehensive Development Plan will cause certain businesses, including some licensed alcohol establishments which have been lawfully operating in the City of Atlanta for over fifteen (15) years, to temporarily cease operation at such locations for periods in excess of nine (9) consecutive months during demolition and reconstruction and may cause the building being reconstructed to have a footprint which may be different than the footprint of the original building where the establishment is located; and

WHEREAS, the City of Atlanta recognizes that when a lawfully operating establishment ceases to operate its business to engage in the demolition or reconstruction of existing buildings and to replace such buildings as part of the project which includes a new mixed-use building which will be compatible with the goals of the Comprehensive Development Plan, the owners and operators of the licensed establishment should be given the opportunity to reconstruct its building on the same property or on a combination of the same property and the immediately adjacent property; and

WHEREAS, the City of Atlanta recognizes that when an establishment which sells alcoholic beverages by the package relocates to a reconstructed building on the same property or on a combination of the same property and the immediately adjacent property, the reconstructed building and the property is subject to any relevant regulations regarding distance requirements from such location to certain surrounding properties; and

WHEREAS, the regulations regarding distance requirements may prohibit the relocation of such established business to a reconstructed building on the same property or on a combination of the same property and the immediately adjacent property although the construction of new mixed-use buildings will be compatible with the goals of the Comprehensive Development Plan, and such established business is compatible with the community surrounding the proposed location and the plans to develop mixed-uses on the Peachtree Road/Peachtree Street corridor; and

WHEREAS, the City of Atlanta recognizes that the relocation of such established business to a reconstructed building on the same property or on a combination of the

same property and the immediately adjacent property will not result in an additional package store in the surrounding area; and

WHEREAS, the City of Atlanta does not want to prevent the demolition and reconstruction of existing buildings to construct new mixed-use buildings which will be compatible with the goals of the Comprehensive Development Plan and the uses identified in City of Atlanta Ordinance 06-O-0146 by preventing a business licensed to sell alcoholic beverages by the package when such business has lawfully operated in the same location for more than fifteen (15) years from remaining on its current property, or the current property and the immediately adjacent property, in a new building which is part of a mixed use project; and

WHEREAS, the City of Atlanta desires to exempt a certain package alcohol license holder from the requirements of City of Atlanta Code of Ordinances Section 10-69 (b) and to exempt certain property identified in City of Atlanta Ordinance 06-O-0146 from the distance requirements of 10-88.1 which govern establishments licensed to sell alcoholic beverages by the package if such license holder's location is redeveloped as part of a project which eliminates a strip shopping center and which results in a mixed use building on the Peachtree Road/Peachtree Street corridor; and

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1. The provisions of Chapter 10, Article II, Division 2, Section 10-69(b) of the City of Atlanta Code of Ordinances are hereby waived in this instance only, for the sole purpose of allowing the beer, wine and distilled spirits package licenses of RBW, Inc. d/b/a Peachtree Road Liquor, located at 1895 Peachtree Road, NE, upon renewal, to be valid and in good standing during the period that the existing licensed premises is demolished and reconstructed for use by Peachtree Road Liquor Store, provided however, that during the period of demolition and reconstruction, until the City of Atlanta issues a Certificate of Occupancy, Peachtree Road Liquor Store shall not sell or store beverage alcohol on such premises.

Section 2. The provisions of Chapter 10, Article II, Division 2, Section 10-88.1 of the City of Atlanta Code of Ordinances are hereby waived in this instance only, for the sole purpose of allowing the Peachtree Road Liquor Store building located at 1895 Peachtree Road, NE to be demolished and a new liquor store building to be reconstructed on such property, identified as "Building One, Two-Story Retail" in that certain site plan identified in City of Atlanta Ordinance 06-O-0146, which site plan may be amended as provided by law. The building identified as "Building One" to be erected on such property and the beer, wine and distilled spirits package business to be operated from such building are exempt from the provisions of City of Atlanta Code of Ordinances Section 10-88.1.

Section 3. All code sections, ordinances, and parts of code sections and ordinances in conflict herewith are hereby waived for the sole purpose of this ordinance only and shall otherwise remain in full force and effect.